

FINDING OF EMERGENCY

The Secretary of the Department of Food and Agriculture finds that an emergency exists, and that the foregoing regulation is necessary for the immediate preservation of the public peace, health and safety, or general welfare.

Specific Facts Showing the Need for Immediate Action

Peach fruit fly, *Bactrocera zonata*, is an insect pest which attacks the fruit of various plants including apple, peach, pear, tomato and citrus. The female punctures host fruit to lay eggs which develop into larvae. The punctures admit decay organisms that may cause tissue breakdown. Larval feeding causes breakdown of fruit tissue. Fruits with egg punctures and larval feeding are generally unfit for human consumption. Pupae may be found in fruit, but normally are found in soil.

Adult peach fruit flies were trapped in the county of Fresno. On May 15, 2006, an adult male peach fruit fly was taken from a trap in the Fresno area of Fresno County. On May 17, 2006, another adult male peach fruit fly was taken from a trap in the Fresno area. On May 18, 2006, two more male adults were taken from traps in the Fresno area. On May 19 and May 20, 2006, one adult male was taken from two separate traps in the Fresno area. The multiple finds of the fly meet the State's and national and international standards that are indicative of an incipient infestation of the fly which requires an emergency quarantine response in the Fresno area of Fresno County.

The Department's action plan for these types of fruit flies in a commercial agricultural production area requires a quarantine response upon the detection of more than five adult flies within three miles of each other and within a time period equal to one life cycle of the fly. The United States Department of Agriculture's Animal and Plant Health Inspection Service and the Food and Agriculture Organization of the United Nations also accept this standard as the trigger for a quarantine response.

If the fly were allowed to spread and become established in host fruit production areas, California's agricultural industry would suffer losses due to decreased production of

marketable fruit, increased pesticide use, and loss of markets if other states or countries enacted quarantines against California products.

This amendment of Section 3424(b) will remove the approximately 106 square miles of the Fresno area of Fresno and Madera counties from the area under quarantine for peach fruit fly. The fly was eradicated from this area on July 28, 2006; therefore, it is no longer necessary to regulate the movement of hosts and possible carriers of the fly from this area. It is necessary to amend this regulation on an emergency basis to remove the quarantine on the Fresno area and remove restrictions on the movement of hosts and possible carriers that are unnecessary. If these unnecessary restrictions were continued, it would create an unnecessary burden for the general public and businesses in that area. Host crops are being or will be harvested in this area soon. Commercially produced host crops, if the restrictions were continued, would have to be treated or would not be allowed movement from the areas. Also if the restrictions were continued, those members of the public who have grown host fruits and vegetables would be required to process the commodities before the fruits and vegetables can be moved or given away or they would have to destroy the host fruits and vegetables. Because this fly has been previously introduced into California with several infestations requiring quarantine action, the Department proposes to retain the regulation text and insert the word “reserved” in subsection (b). By this action, the regulation may be simply amended to add a new quarantine area description when a new infestation is detected without continuing restrictions for areas from which the fly has been eradicated.

Authority and Reference Citations

Authority: Sections 407 and 5322, Food and Agricultural Code.

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Informative Digest

Existing law obligates the Department of Food and Agriculture to protect the agricultural industry of California and prevent the spread of injurious pests (Food and Agricultural Code, Sections 401 and 403). Existing law provides that the Secretary may establish, maintain,

and enforce such quarantine regulations as he deems necessary to circumscribe and exterminate or prevent the spread of pests to protect California's agricultural industry.

Existing law also establishes that the Secretary may establish, maintain, and enforce quarantine regulations as he deems necessary to circumscribe and exterminate or prevent the spread of pests (Food and Agricultural Code, Sections 401, 403, 407 and 5322).

Section 3424. *Bactrocera zonata* Interior Quarantine.

Existing regulations established quarantine area of 106 square miles in the Fresno area of Fresno and Madera counties as the area under quarantine for *Bactrocera zonata*, peach fruit fly. This amendment will remove the quarantine area for peach fruit fly of approximately 106 square miles in the Fresno area of Fresno and Madera counties. The effect of the amendment is to remove authority for the State to regulate movement of hosts and possible carriers of peach fruit fly within and from the Fresno area, because it is no longer necessary to protect California's agricultural industry since the fly has been eradicated from that area.

Mandate on Local Agencies or School Districts

The Department of Food and Agriculture has determined that Section 3423 does not impose a mandate on local agencies or school districts, except that agricultural commissioners of counties under quarantine have a duty to enforce it. No reimbursement is required under Section 17561 of the Government Code because this amendment will remove the portions of Fresno and Madera counties that were in the area under quarantine; therefore, enforcement will no longer be necessary. There are no mandated costs associated with the removal of the Fresno area from the regulation.

Cost Estimate

The Department also has determined that the regulation will involve no costs or savings to any state agency, no nondiscretionary costs or savings to local agencies or school districts, no reimbursable costs or savings to local agencies or school districts under Part 7

(commencing with Section 17500) of Division 4 of the Government Code, and no costs or savings in federal funding to the State.